

24TH FEDERAL LITIGATION COURSE

CASE MANAGEMENT AND RESPONSIBILITIES FOR LITIGATION

I. INTRODUCTION.

II. RESPONSIBILITY FOR LITIGATION.

A. United States Department of Justice.

1. Department of Justice (DOJ) exercises plenary authority over litigation involving the interests of the United States.

“Except as otherwise authorized by law, the conduct of litigation in which the United States, any agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to the officers of the Department of Justice, under the direction of the Attorney General.” **28 U.S.C. § 516.**

“Except as otherwise authorized by law, the Attorney General shall supervise all litigation to which the United States, an agency, or officer thereof is a party, and shall direct all United States Attorneys, assistant United States Attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties.” **28 U.S.C. § 519.**

2. Organization of the Department of Justice

- a) General.
- b) Civil Division.
 - (1) Appellate Staff.
 - (2) Commercial Litigation Branch.
 - (3) Federal Programs Branch.

(4) Torts Branch.

(5) Office of Consumer Litigation.

(6) Office of Immigration Litigation

B. United States Attorneys.

1. One United States Attorney appointed by the President for each judicial district. **28 U.S.C. § 541.**
2. Assistant United States Attorneys (AUSA) are appointed by the Attorney General. **28 U.S.C. § 542.**
3. Responsibility of the United States Attorney.
 - a) General.

“[E]ach United States Attorney, within his district, shall . . . (2) prosecute and defend for the Government, all civil actions, suits or proceedings in which the United States is concerned.” **28 U.S.C. § 547.**
 - b) Retained and delegated cases.
4. Organization of the United States Attorney’s Office.

C. Department of the Army.

1. “Subject to the ultimate control of litigation by DOJ (including the various U.S. Attorney Offices), and to the general oversight of litigation by the Army General counsel, TJAG is responsible for litigation in which the Army has an interest.” Army Regulation 27-40, para. 1-4b.
2. Within DA, the Chief, Litigation Division, has primary responsibility for supervising litigation of interest to the Army. AR 27-40, para. 1-4d.
3. Website: <www.jagcnet.army.mil>

4. Special Assistant U.S. Attorneys (SAUSAs) and DOJ Special Attorneys. See AR 27-40, para. 1-4e. Army judge advocate attorneys and civilian attorneys, when appointed as SAUSAs under 28 U.S.C. § 543, will represent the Army's interests in either criminal or civil matters in Federal court under the following circumstances:
 - a) Felony and misdemeanor prosecutions in Federal Court.
 - b) SAUSAs for civil litigation.
 - c) Special Attorneys assigned by DOJ (only in civil litigation).
5. Responsibilities of Installation Staff Judge Advocates.
 - a) Establish and maintain liaison with United States Attorney. AR 27-40, para. 1-5b.
 - b) Advise Litigation Division by telephone of significant cases and those requiring immediate attention (e.g., temporary restraining orders, habeas corpus, cases with short return dates, cases alleging individual liability arising from performance of official duties, etc.). AR 27-40, paras. 3-1 and 3-3a.
 - c) Forward by FAX or express mail to HQDA, a copy of all process, pleadings, and other related papers. AR 27-40, para. 3-3b.
 - d) Assist federal employees sued for actions taken within the course and scope of their employment in securing DOJ representation. AR 27-40, paras. 3-4 and 4-4.
 - e) Represent the United States in litigation only when directed by the Chief, Litigation Division. AR 27-40, para. 1-4f.

D. Department of the Navy.

1. Navy Regulations, Article 0327 assigns responsibility for all business and commercial law, environmental law, civilian personnel law, real estate and personal property law, intellectual property and procurement and associated litigation to the Office of General Counsel (OGC).

2. Navy Regulations, Article 0331 assigns to the Judge Advocate General responsibility for legal services not assigned to the OGC, including the provision of legal and policy advice to the Secretary of the Navy on military justice, administrative law, claims, operational and international law, and related litigation issues.
 3. Website. <www.jag.navy.mil>
- E. Department of the Air Force.
1. Air Force Instruction 51-301, Civil Litigation, implements Air Force Directive 51-3 (also titled “Civil Litigation”) by setting guidelines for litigation, tax disputes, and legal or administrative proceedings. It was substantially revised on 1 July 2002.¹
 2. Website. <aflsa.jag.af.mil> (Access requires FLITE password)
- F. U.S. Coast Guard.
1. Manual for Claims and Litigation, Chapter 18, discusses litigation responsibility.
 2. Litigation Point of Contact: Office of Claims and Litigation, U.S. Coast Guard, 2100 Second Street SW, Washington, D.C. 20593-0001; Telephone, 202/267-2245.
 3. Website: <www.uscg.mil>

III. CASE MANAGEMENT CHECKLISTS.

- A. U.S. Federal District Court.
- B. Court of Federal Claims.

IV. CONCLUSION.

¹ This revision includes updated guidance on, *inter alia*: processing representation requests (para. 1.3); indemnification requests (para. 1.4); standards for Privacy Act protection of litigation report documents (para. 1.8.1.4); necessary disclosures in litigation matters (para. 1.8.1.5); a new format for creation of litigation reports (Fig. 1.4); adds and explains certain, specific duties for discovery requests and processing requests for representation (para. 2.3, 2.4).